



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0085]

RIN 1625-AA00

Safety Zone; V.I. Carnival Finale, St. Thomas Harbor; St. Thomas, U.S.V.I.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters of St. Thomas Harbor in St. Thomas, U. S. Virgin Islands during the V.I. Carnival Finale, a firework display. The event is scheduled to take place on Saturday, April 27, 2013, and will entail a barge being positioned near the St. Thomas Harbor channel from which fireworks will be lit. The safety zone is necessary to ensure the safety of vessels, spectators, and the public on the navigable waters of the United States during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port San Juan.

DATES: This rule is effective on April 27, 2013, from 5 p.m. until 10 p.m.

ADDRESSES: Documents mentioned in this preamble are part of

docket USCG-2013-0085. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Chief Warrant Officer Anthony Cassisa, Sector San Juan Prevention Department, Coast Guard; telephone (787) 289-2073, e-mail Anthony.J.Cassisa@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard published a notice of proposed rulemaking (NPRM) on March 14, 2013, in the Federal Register (78 FR 16208). The Coast Guard received no public comments in the docket and no requests for public meetings.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register because it is impracticable to do so. The Coast Guard did not receive information from the event sponsor early enough to both publish a NPRM and allow 30 days after publication before making this rule effective. The Coast Guard chose to notify the public and seek comment on this rule by publishing an NPRM. This final rule is necessary to protect the public and commercial traffic during the firework display, and therefore, must be effective by the start of the event on April 27, 2013.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

On April 27, 2013, Fireworks by Grucci and Left Lane Productions are sponsoring the V.I. Carnival Finale, a firework display event. The event will be held on the waters of St. Thomas Harbor, St. Thomas, U. S. Virgin Islands. Fireworks will be launched from a barge stationed near the St. Thomas Harbor channel.

The purpose of the rule is to protect the public from the

hazards associated with the launching of fireworks over navigable waters of the United States.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in the docket for this rulemaking. We made no changes to the regulation as originally proposed.

This safety zone encompasses waters in St. Thomas Harbor. The zone will be enforced from 5 p.m. until 10 p.m. on April 27, 2013. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the safety zone by contacting the Captain of the Port San Juan or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize

our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this proposed rule is not significant for the following reasons: (1) the safety zone will be enforced for only five hours; (2) persons and vessels may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small

businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of St. Thomas Harbor encompassed within the safety zone from 5 p.m. until 10 p.m. on April 27, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with,

Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety

that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone around a barge during a fireworks display will be

enforced for five hours. This rule is categorically excluded under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0085 to read as follows:

§ 165.T07-0085 Special Local Regulation; V. I. Carnival Finale, St. Thomas Harbor; St. Thomas, U. S. Virgin Islands.

(a) Regulated Area. The following area is established as a safety zone: all waters within a 800 foot radius of 18°20.200N, 64°55.200W. Coordinates are North American Datum 1983. Persons and vessels are prohibited from entering, transiting through,

anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port San Juan.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated area.

(c) Regulations.

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone, unless authorized by the Captain of the Port San Juan or those participating in the firework display.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area

by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(3) The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Date. This rule will be enforced from 5:00 p.m. until 10:00 p.m. on Saturday, April 27, 2013.

Dated: April 5, 2013

D. M. Flaherty
Captain, U.S. Coast Guard
Acting Captain of the Port, San Juan

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